

*Town of Tyngsborough
Conservation Commission*

25 Bryants Lane
Tyngsborough, Massachusetts 01879-1003
Office: (978) 649-2300 ext 116
Fax: (978) 649-2301

APPROVED
8-25-09

Minutes
June 23, 2009
APPROVED

Present:

ES: Ed Smith **JK:** Jeff Kablik **WL:** William Look **LG:** Lucy Gertz **JE:** Jerry Earl
MM: Matt Marro, Conservation Director

Absent:

JN: John Nappi **CF:** Christine Fox

7:05pm Meeting opened by Ed Smith

7:05pm 104 Coburn Road (25, P43, L0) – Notice Intent for the proposed construction of a single family dwelling, porch, garage, rooftop infiltration, driveway, well, grading and associated utilities. In addition, the applicant is proposing to extend the sewer on Coburn Rd.

Steve Eriksen of Norse Environmental appeared before the commission for the applicant Donald Crowell. Mr. Eriksen presented the Commission with a plan to construct a single family dwelling on a lot that was created in 1975, prior to the establishment of the Tyngsborough Wetland By-Laws. The lot is a 2.11 acre parcel that contains a significant wetland system making it relatively non-conforming. However, the parcel was granted a variance and therefore, meets all zoning regulations. The pre-existing lot status allows the Commission to grant a local by-law waiver since the wetland by-law regulations were not in affect when this lot was created. The DEP reported that they had no issues with this lot and the proposed construction plans. MM indicated that Town Counsel did report an opinion concerning this lot which was favorable to the applicant. JK indicated serious concerns over "shoe-horning" a house on a lot with this type of wetland system surrounding it. LG concurred and added that a deed restriction "won't stop people from coming before Conservation for things like this in the future". MM stressed that a deed restriction is not a "waivable" item and is a good tool for Conservation to use in the future. JK noted that it is still "irresponsible to shoe-horn in a house on a lot like this". Mr. Eriksen stressed that there are 32,000 square feet of upland on the lot that would minimize any problems. Some ideas for language in the deed restriction that would protect the wetlands from encroachment were discussed. Among the requirements were that no additional structures are to be built on the property, no pools are to be installed, and a fence should be constructed. LG said that any fence that was built would need to be a structure that would enable the wildlife to migrate through the property. Mr. Eriksen proposed the placement of Bernstein Markers which mark the wetland areas of the property. LG proposed installing a permanent brass-like plate marker in the concrete wall of the garage portion of the house. The marker would have language on it that would specifically note that the house was constructed in a wetland designated area.

JK: Motion to close the hearing.

WL: 2nd the motion.

In Favor: 5 Opposed: 0 Absent: 2

Passes

JK: Motion to issue a Standard Order of Conditions for 104 Coburn Road (M25, P43, L0) DEP# 309-0826 for the construction of a single family home with the following conditions:

1. A Deed Restriction must be placed on the home that states the following: that the dwelling was built within close proximity of a wetland, and no structures are to be built and/or placed on the property, including but not limited to pools, sheds, and extended decks.
2. A marker must be permanently fixed into the garage of the structure that clearly states the following: This home was constructed in a wetland designated area.
3. No work can be started until Tyngsborough Town Counsel has approved the Deed Restriction.

WL: 2nd the motion.

In Favor: 5 Opposed: 0 Absent: 2

7:10pm 422 Middlesex Road (M12, P29A, L0) – Notice of Intent DEP# 309-0821 for the proposed construction of a roadway with associated grading and utilities in an industrial subdivision. Continued from 4/14/09.

JK: Motion to continue the hearing for 422 Middlesex Road Notice of Intent until 7/28/09 at 7pm.

WL: 2nd the motion.

In Favor: 5 Opposed: 0 Absent: 2

Passes

7:20pm 79 Mascuppic Trail (M32B, P16, L0) – Enforcement Order for excavation and grading within 100 feet of a wetland without a valid Order of Conditions.

Owner Joan Trudel appeared before the Commission regarding this issue. Ms. Trudel explained that in order to help minimize the water run-off from the street down her property and washing out her waterfront area she had a trench dug and crushed stone put in it. MM reported that Ms. Trudel was spoken to about this issue and he reiterated to her the need to contact the Commission when any work is being done on her property. MM also requested that Ms. Trudel loam and seed the disturbed area immediately. Ms. Trudel did comply with the Director's request and brought pictures of the newly seeded area to prove it. MM suggested that Ms. Trudel file a retroactive Request for Determination of Applicability in order to bring her back into compliance. Ms. Trudel would have to pay the Enforcement Order fine of \$50 as well. Ms. Trudel agreed to comply with the Commission's orders.

7:30pm 27 Nevada Road (M2, P138, L0) – Request for Partial Certificate of Compliance DEP# 309-54.
Order of Conditions issued 5/7/85.

JK: Motion to issue a Partial Certificate of Compliance for 27 Nevada Road DEP# 309-54.

WL: 2nd the motion

In Favor: 5 Oppose: 0 Absent: 2

Passes

7:35pm Route 3 North – Request for Certificate of Compliance DEP# 309-549. Order of Conditions issued 3/29/00 (extension issued 9/25/00).

JK: Motion to issue a Certificate of Compliance for Route 3 North DEP# 309-549

WL: 2nd the motion

In Favor: 5 Oppose: 0 Absent: 2

Passes

7:40pm 24 Old Tyng Road, Maple Ridge Development – Request for Certificate of Compliance DEP# 309-0725. Order of Conditions issued 8/25/04 (extension issued 4/8/08).

JK: Motion to issue a Certificate of Compliance for 24 Old Tyng Road, Maple Ridge Development DEP# 309-0725.

WL: 2nd the motion

In Favor: 5 Oppose: 0 Absent: 2

Passes

7:45pm Deer Ridge Estates, off Anderson Way – Request for Certificate of Compliance DEP# 309-545.
Order of Conditions issued 3/29/2000.

JK: Motion to issue a Certificate of Compliance for Deer Ridge Estates off Anderson Way DEP# 309-545.

WL: 2nd the motion

In Favor: 5 Oppose: 0 Absent: 2

Passes

Director's Determinations and Report

Joan Trudel of 79 Mascuppic Trail asked the Commission to consider approval of her plans to remove a ~90' white pine tree that is diseased, and to approve repairs to an existing rock wall that is collapsing. Ms. Trudel provided the Commission with photographs of the areas in question. MM said that a Director's Determination would be sufficient for these projects.

JK: Motion to issue a Director's Determination to 79 Mascuppic Trail for the removal of a ~90' white pine tree and the repair of an existing rock wall.

WL: 2nd the motion.

In Favor: 5 Opposed: 0 Absent: 2

Passes

185 Pawtucket Blvd. (The Vesper Country Club) requested permission to remove a damaged white pine tree located by the bridge.

JK: Motion to approve the Director's Determination for 185 Pawtucket Blvd.

WL: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes

Discussion

Cedar Street Boat Ramp Access (located at the Fleur de lis Club at 39 Elm St.) – Resident inquiry.

ES inspected the area and reviewed the Assessor maps. In order to clear up any doubt about the "public access" delineation of the Cedar Street boat ramp, ES proposed that the Commission approve an instrument survey on the Cedar Street R.O.W. and to post a public boat launch sign upon final review of the survey results.

WL: Motion to order an instrument survey on the R.O.W. for Cedar Street.

JE: 2nd the motion.

In Favor: 5 Opposed: 0 Absent: 2

Passes

Minutes/Sign Forms/Other Business

Signed the following forms:

- 65-67 Mascuppic Trail (M32B, P37) DEP# 309-0823 Order of Conditions
- 76 Frost Road (M19,25,20B,P60,8,30) DEP# 309-0824 Order of Conditions
- 27 Nevada Road (M2, P138, L0) DEP# 309-54 Partial Certificate of Compliance
- Route 3 North DEP# 309-549 Certificate of Compliance
- 24 Old Tyng Road, Maple Ridge Development DEP# 309-0725 Certificate of Compliance
- Deer Ridge Estates, Off Anderson Way DEP# 309-545 Certificate of Compliance

8:35pm

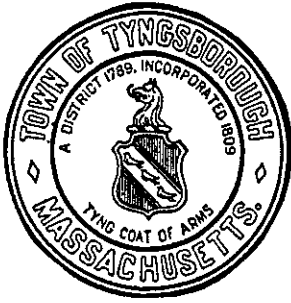
JK: Motion to adjourn

WL: 2nd the motion

In Favor: 5 Opposed: 0 Absent: 2

Passes

Respectfully submitted
Pamela Berman, Conservation Clerk



Conservation Commission
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AGENDA
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- 7:30pm 27 Nevada Road (M2, P138, L0) – Request for Partial Certificate of Compliance DEP# 309-54.** Order of Conditions issued 5/7/85.
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- 7:40pm 24 Old Tyng Road, Maple Ridge Development – Request for Certificate of Compliance DEP# 309-0725.** Order of Conditions issued 8/25/04 (extension issued 4/8/08).
- 7:45pm Deer Ridge Estates, Off Anderson Way – Request for Certificate of Compliance DEP# 309-545.** Order of Conditions issued 3/29/2000.

Discussion:

- **Cedar Street Boat Ramp Access** (located at the Fleur de lis Club at 39 Elm St.) – Resident inquiry.

Administrative:

1. Director's Determinations and Report
2. Minutes/Bills/Other Business:

- ❖ Approve the minutes from the 6/9/09 meeting.

3. Sign the following forms:

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